

MINUTES

Legislative Commission on the Fair Treatment of College Student-Athletes

October 3, 2018

The Legislative Commission on the Fair Treatment of College Student-Athletes met Wednesday, October 3, 2018 at 9 a.m. in Room 643 in the Legislative Office Building. Lieutenant Governor Dan Forest, Chair of the Commission, presided during the meeting. Commission Members present were Representatives John Fraley, Ken Goodman, Jon Hardister, Gregory Murphy and Senators Dan Bishop, Warren Daniel, Don Davis, Joyce Krawiec, Floyd McKissick and Jeff Tarte. Staff Members present were Jessica Boney, Brian Gwyn, and Kara McCraw. Susan Horne served as the Committee Clerk. The Sergeant-at-Arms Assistants that provided assistance during the meeting were Terry McGraw, Kenneth Gilbert, Jim Moran (House); and Linda Matthews, Hal Roach (Senate).

The Committee was called to order at 9:04 a.m. After introductions and a review of the meeting's agenda, Chairman Forest read the 12 items in the legislation (SL 2018-97 Sec.12.1; SB 335) that the Commission will be reviewing (see Attachment A, Section I).

The first presentation was given by Scott Bearby, Vice President and General Counsel with the NCAA Office of Legal Affairs. He reviewed the relationship between the NCAA and the universities (see Attachment B, Section II). He gave an overview of the structure and governance of the NCAA. Mr. Bearby talked about the role of the NCAA Board of Governors as well as the core principles. He discussed the structure of the legislative process in Division I and the issue of autonomy. He talked about the input from the various individuals within the university campus as well as the committees that provide oversight. Mr. Bearby reviewed the responsibilities of the Board of Directors for Division I and Division II. He talked about the responsibilities and priorities of the National Office Administration and the Sports Science Institute. He discussed the \$46 million commitment in connection with the Department of Defense to study the long term effects of university athletes and military personnel with regard to head injuries and concussion protocols.

Senator McKissick asked about the catastrophic injury program and what the NCAA is doing to intercept these problems before the student athlete reaches the college level. Mr. Bearby replied the student athletes have health coverage set up by parent(s) or provided by the institution. Catastrophic coverage would provide no gap in coverage as well as lifetime coverage if necessary up to \$20 million maximum. The NCAA isn't an authoritative body on youth sports but understands the expectations. A student's medical history can indicate some underlying health conditions, such as overuse injuries and concussions, so the NCAA has offered screening for undetected health issues such as sickle cell. The medical standard of care isn't determined by the NCAA but medical professionals and trainers have determined these policies. He noted that federal laws regarding privacy do present some limitations. Senator Davis asked about the

history regarding the data-driven evidence in terms of the NCAA looking at the injuries occurring and how the data translates regarding the rules in tracking. Mr. Bearby responded the data regarding injuries in football has led to rule changes such as targeting (helmet to helmet) and kickoff returns. As changes are made, they continue to evaluate the adjustments in the rules. Senator Davis asked about the collection of data and its continuous use with regard to high contact sports. Mr. Bearby said there is data collected from other contact sports and the NCAA is always looking for data especially provided by institutions. Senator Davis asked about the health records of a student moving from high school to college sports. Mr. Bearby noted that laws such as HIPAA can restrict information from being disclosed, or sometimes a student may not be aware of the condition. Senator Davis asked if the NCAA can legally collect health information from a clearing house. Mr. Bearby said the information has been collected locally but there are restrictions. Senator Davis asked if the data could be collected without it being distributed. Mr. Bearby replied it could be done but the information wouldn't provide a comprehensive health record of the student athlete. Regarding the legislative process for Division II schools, Senator Bishop asked if student athletes play a role in the process. Mr. Bearby replied every Division has input from the student athlete in the legislative process and their representative has a vote. Senator Bishop asked about the role of organizations such as Pollstar and the NCAA that explore areas of college sports that they should or should not be involved in. Mr. Bearby responded the leaders from the 1,100 institutions in the three divisions must come together to create policy and rules for their student athletes. This process continues to evolve as they face the challenges regarding fairness together with educational success. Regarding the scholarship aspect, Senator Krawiec asked about the role the NCAA plays in the transfer of a student athlete from one school to another. Chairman Forest replied there will be a full discussion on this issue at a later time. Senator Tarte asked how the NCAA balances the educational goals of a student athlete versus the massive sports industry. Mr. Bearby replied the autonomy programs are examples of how adjustments have been made and how adjustments have led to changes in the financial gaps a student athlete may have. He noted there is local management that the NCAA isn't involved in. Senator Tarte asked about the conflict regarding the education of a student athlete versus the salary of coaches. Chairman Forest reminded the Members to limit their questions to the scope of the meeting. Mr. Bearby replied the NCAA's regulatory authority doesn't extend to employment or salary issues on the campus. Senator Davis asked if the NCAA is investing in the health and safety of the student athlete. Mr. Bearby said the information is noted on their website. Senator Davis asked about connecting the dots concerning information from the clearing house and how funds are spent with the clearing house. Mr. Bearby replied the clearing house concept was established as an eligibility center, and the fees cover the management of services. He noted this information is provided on the NCAA's website. Regarding the hiring and role of strength and conditioning coaches, Chairman Forest asked if the NCAA has the authority to set standards for these coaches. Mr. Bearby said the question has been whether to classify the position as a coach or health care professional. The NCAA considers the strength and conditioning coaches as health care professionals who should be reviewed by health care professionals but the institutions have the ultimate authority. Senator Tarte asked if the parent body has the authority to mandate standard treatment protocols. Mr. Bearby replied the protocols follow the medical standard of care and are designed to change as medical information gets better.

The second presentation was given by Dr. Phil Dubois, Chancellor of UNC-Charlotte regarding the Insurance, Injury and Welfare of Student-Athletes (see Attachment C, Section III, document 1 for bio). UNC System President Margaret Spellings asked Chancellor Dubois to be the representative for the chancellors during this and any other forthcoming meetings. His presentation included a discussion of the UNC System's institutions in the context of the NCAA, the administration of scholarships and financial aid, and the health and wellness requirements of the NCAA regarding injuries and insurance for student athletes (see Attachment C, Section III, document 2). He discussed the structure of the NCAA and its requirements. Chancellor Dubois reviewed the difference between FBS (sponsors at least 16 sports) which is divided into 2 groups (Power Five and Group of Five), and FCS (sponsors at least 14 sports) in Division I and included Division II and III. He addressed questions regarding financial aid rules, such as a student athlete's right to have their scholarship protected, and whether or not the student athlete has the right to remain on a team roster. He talked about the NCAA rules of financial commitments and the complexity of how scholarships are written and awarded. Chancellor Dubois discussed how financial aid may or may not be reduced or canceled during the award period. Such infractions include providing false information on an application, violation of team rules, misconduct or academic standing. Advance notice of a hearing must be provided according to the school's policies and procedures to the student athlete, and a review by a committee led by the financial aid office. The hearing will help determine if a student athlete stays on a team roster. Regarding the right of a student athlete to remain on a team roster, Chancellor Dubois discussed the number of scholarships or "counters" allowed by each sport. If a student athlete is injured and can't play during any given season, they remain a "counter." A coach could decide to remove the student athlete from the team roster but the player would remain a counter. The scholarship of an injured player is protected for the years covered in the award. Some athletes can be granted a medical exemption depending on the circumstances and removed from the team roster (classified as a non-counter) which would allow a coach to fill that counter slot. The injured student athlete would continue to receive their scholarship award. He discussed the differences in the renewal process of a scholarship according to each Division. Chancellor Dubois discussed the medical care of the student athlete with regard to health care providers and medical management. He reviewed Division I by-laws relating to health and safety of student-athletes (see Attachment C, Section III document 3) which includes a physical, drug testing, concussion management plans and sickle cell testing. He discussed the process of a student athlete returning to competition who may be allowed to a second opinion. He continued by discussing health insurance and the types of coverage for the student athlete. The NCAA requires that all intercollegiate programs certify that it carries health insurance for their student athletes and there are options for the campuses to choose from. Primary and secondary policies must have a maximum coverage of the \$75,000 and the NCAA has a catastrophic policy that covers lifetime benefits of \$20 million. The coverage of a student athlete's injury varies from campus to campus. The university reviews the student's medical coverage and assists them with additional coverage if they have a high deductible. Chancellor Dubois reviewed UNC Charlotte's primary and secondary insurance policies, and the changes the autonomy conferences made to include medical coverage and mental health benefits 2 years after a student athlete leaves campus or when they qualify for NCAA catastrophic injury insurance.

Representative Goodman asked if the student athlete's scholarships are renewed each year. Chancellor Dubois replied they are. Representative Goodman asked if a scholarship could be revoked the following year. The Chancellor replied a scholarship can't be revoked during the award year. It would also depend if it were an autonomy or non-autonomy school and if they are following the autonomy rules. Representative Goodman asked which schools follow the autonomy rule. The Chancellor didn't have a list of schools to refer to but knew NCSU and UNC follow the autonomy rule. He added that there will be open slots the following year because of students graduating or exhausting their eligibility. Furthermore, he noted that you cannot take away a scholarship based on poor athletic performance. Representative Murphy asked about the contractual agreement between the athlete and the school. Chancellor Dubois replied the scholarship award begins at the time when the athlete signs a letter of intent and the length of the scholarship is noted on the award contract. Representative Murphy asked about the number of years of a scholarship awarded to the athlete. The Chancellor replied most scholarship awards are for one year with the expectation the award will be renewed but it varies by sport. He added the NCAA has allowed autonomy conferences multi-year awards but most mid-resource institutions usually offer one year awards. Representative Murphy asked about the student's eligibility to play and remain a counter. Chancellor Dubois replied an injured student athlete remains a counter during his award year. If it becomes clear the student athlete can't compete for the rest of their eligibility, the student can get a medical exemption and become a non-counter and keep their scholarship. Representative Murphy asked if the student who is injured is allowed to keep their scholarship to complete their education. Darin Spease, Deputy Athletic Director at UNC Charlotte, replied that statement was correct. Senator Tarte asked if there is any differentiation of coverage whether the student is participating in a sanctioned event, practicing on their own or injured at home. Chancellor Dubois replied the secondary health insurance coverage provided by the university covers an athletically-related injury. Mr. Spease replied the injury would be assessed (where and when it happened) and the university's insurance would cover the cost if it were an athletic-related injury. Senator Tarte asked if the universities require student athletes to be current on all vaccines. The Chancellor replied all students at the university must certify they have had a required set of inoculations; the flu vaccine can be requested by the student athlete. Senator McKissick asked for a clarification of the catastrophic injury coverage with regard to medical and disability. Mr. Spease replied the policy is designed to cover medical expenses related to the injury that occurred when the student athlete was competing but it doesn't cover disability coverage. Senator McKissick asked about medical coverage if the costs exceed the cap. Mr. Spease responded the catastrophic injury policy is \$20 million for lifetime coverage. Senator McKissick asked about the policy of the medical history of the student athlete. Mr. Spease replied that UNC Charlotte collects an extensive medical history from the family, and screened for health issues such as sickle cell, cardio, EKG and baseline concussion testing before the athlete is allowed to play. Senator McKissick asked if there was any consideration of working with DPI to ensure there is a thorough medical screening when the student participates in high school sports. Chancellor Dubois replied that question should be directed to high schools and reminded that the athletes are coming from all over the country. Regarding the NCAA's catastrophic health insurance, Senator Davis asked for a clarification between total versus partial disability. Mr. Bearby replied the policy does include \$400 a month for 12 months and \$2,700 a month for total disability with a

built-in increase. Chairman Forest asked Mr. Bearby if he would provide this information to the Members after the meeting. Senator Davis asked about the transition process to catastrophic insurance. Mr. Spease noted the confusion of catastrophic versus total disability and added the university contacts the NCAA for this insurance to begin. Senator Davis asked for further information about the process. Rob Murphy, Associate Athletic Director –Student Welfare and Development and Sports Medicine Director at NCSU replied there is no additional paperwork required for the NCAA to pick up the catastrophic insurance (automatically kicks in).

The third presentation was given by Dr. Johna K. Register-Mihalik, Assistant Professor in the Department of Exercise and Sport Science at the Matthew Gfeller Sport-Related TBI Research Center at the University of North Carolina at Chapel Hill (see Attachment D, Section IV). She discussed the welfare of athletes and prevention of injury. She talked about the definition and history of the injury as it relates to sports concussions of the collegiate athlete. Dr. Register-Mihalik reviewed the symptoms, assessment and the potential issues that can happen with mismanagement. It is important to note that a concussion can't be diagnosed by any standard medical imaging such as an x-ray, CT scan or MRI, and the symptoms of a concussion may typically last 7-10 days. She talked about the conditions of a concussion, and the potential issues with mismanaging the health of a collegiate athlete that has suffered a concussion. She reviewed the assessment process as the student athlete returns to sport. Dr. Register-Mihalik discussed the comparison data in 2014 that was collected from 1999 to 2004. She finished by discussing what is and isn't known, and where to go from this point.

Senator Tarte asked if Dr. Register-Mihalik was familiar with Dr. Doug Casa from the University of Connecticut and if she agrees with his theory that ice baths are a way to prevent heat strokes. Dr. Register-Mihalik replied their evidence would support his theory. Senator Tarte asked if she agreed with Coach Fedora's comments regarding CTE. She replied that she couldn't speak for Coach Fedora but noted that the Matthew Gfeller Sport-related TBI Research Center does its best to provide the best health care for concussion-related injuries. Senator Tarte asked what data should be collected to determine when a student can begin to participate in sports. Dr. Register-Mihalik said there is no data collected to support what age is appropriate to begin sports competition and there is little data on students going from middle to high school. She believed data should be collected to understand injury rates across the age groups and thought there should be an age-appropriate progression for students to play contact sports. Senator Daniel asked if the NCAA implemented a return-to-sport policy. She replied the NCAA follows the same recovery model for return-to-sport progression that is noted in the handout.

The fourth presentation was given by Nina Walker, Vice President of the North Carolina Athletic Trainers' Association on the role of athletic trainers in healthcare (see Attachment E, Section V). She reviewed the role of athletic trainers and their scope of practice. She talked about the regulations, educational requirements and what athletic trainers are trained to do. She continued by reviewing who athletic trainers work with and how they deliver the care that's necessary for the student athlete. Ms. Walker finished her presentation by discussing how athletic trainers can help with policy making and points of interest. Senator Bishop asked if there are standards for how many athletic trainers are needed. Ms. Walker replied the National

Athletic Training Association provides a survey for universities to use and provides a formula to determine how many trainers are needed. Senator Bishop asked if institutions follow the standards of the association. Ms. Walker said there is no mandate but it is institution-based so the standards are followed by most institutions. Representative Hardister asked about the types of athletic trainers and what their educational requirements/certifications/continuing education is required. Ms. Walker explained the educational requirements (board exams and clinical hours) along with 25 hours a year in continuing education is the same for all athletic trainers (high school or college). Senator McKissick asked if there is more specialized training available for athletic trainers to identify and address issues such as concussions or a traumatic brain injury. Ms. Walker replied the educational requirements and continuing education keeps the athletic trainer informed of the newest and most up to date standards in their field. Senator McKissick asked if there are certain institutions that are considered more preeminently recognized than others in their training of athletic trainers. Mr. Walker responded that athletic trainers are fortunate to have UNC-CH, which is a leader with the resources available and the different levels of expertise in N.C. Chairman Forest asked Ms. Walker who hires an athletic trainer and who is her boss. Ms. Walker replied a physician is her boss at UNC-CH and is housed in the campus health services. She noted her decisions go through the associate athletic trainer, the director of sports medicine and their bosses. Chairman Forest asked if there are conflicts between the athletic trainer and coaches. Ms. Walker replied that decisions are ultimately made by physicians so conflicts are usually resolved. Representative Murphy asked about the difference in practice between an athletic trainer versus a physical therapist in the treatment and rehabilitation of the student athlete. Ms. Walker responded athletic trainers handle the rehabilitation of the student athlete but collaborate with a physical therapist, whereas physical therapists are more active in the high school setting.

The fifth presentation was given by Ramogi Humi, Executive Director of the National College Players Association about policy recommendations for student-athlete welfare (see Attachment F, Section VI, documents 1-5). He discussed the history of concussions and CTE in contact sports and how it has affected the student athlete and former college athletes. He noted the NCAA has very good guidelines and bylaws regarding safety standards and concussion protocols that aren't enforced and the schools chose not to enforce the standards. The problem of self-policing can affect the student athlete's health when it comes to the pressure of winning games. He noted this leads to negligence, mistreatment and abuse, referring to the case of Larry Nassar. Mr. Humi discussed the issue of athletes having problems collecting health insurance with sports-related injuries while participating in collegiate sports. He noted the letter of intent doesn't guarantee the athlete a scholarship and should be banned. His association provides a sample contract that gives a list of what schools provide without breaking NCAA rules. He said transparency is very important, and suggested the legislature should introduce legislation that mandates health and safety standards. This would allow an independent group to review complaints and act accordingly. He gave a summary of recommendations that the members could review and act on. Senator McKissick asked about the legislation that was passed in California. Mr. Humi talked about the three pieces of legislation passed which are the Athletes Right to Know Act passed in 2010, and Athlete's Bill of Rights passed in 2012. The Health and Safety Program legislation was introduced in 2017 but didn't pass. Senator McKissick requested

more information regarding the California legislation. Senator Tarte noted the incident of the UNC football player who was hit during practice and lost his sight in one eye. The incident wasn't reported because the athlete wanted to stay at the university, and have a future in coaching and playing at the professional level. He asked what should be done to encourage athletes to report incidences and not feel any intimidation or repercussions. Mr. Humi responded that mandating reporting would be a priority.

The final presentations were given by former student athletes on their perspective.

David Collins, former football player from the University of North Carolina at Chapel Hill (Class of 2013) addressed the committee (see Attachment G, Section VII, document 1). He reviewed his history as a college athlete at UNC-CH, and discussed his career-ending injury during his senior year. He believes the NCAA and universities can do more for student athletes to pay for injury-related surgeries that occurred during their collegiate career. Mr. Collins added the NCAA never came to speak with the athletes during the investigation at UNC-CH. His recommendations to the committee were to develop a standardized protocol for concussions. Another recommendation was to enroll all college students in the State Health Plan. The final recommendation was to review the relationship between the student athlete and the universities and the NCAA from a health care perspective for ways to address and resolve a better outcome for student athletes. Representative Hardister asked his personal reaction to the comments made by Coach Fedora regarding CTE. Mr. Collins replied he wasn't surprised by his comments but agreed with a portion of the comments that football is under attack because those in the field of football aren't recognizing the repercussions of the sport. Representative Hardister asked his thoughts about eliminating the kickoff return. Mr. Collins said the impact of the play creates some of the greatest impact hits during the game but believes it doesn't outweigh the strategic advantage in keeping it in play as part of the game. Chairman Forest asked Mr. Collins to talk about his injury and the personal cost since your injury. Mr. Collins replied he suffered 3 torn ligaments, 3 torn tendons, a fractured 1st metatarsal, a stressed 2nd metatarsal and a partially torn Achilles tendon in his left ankle. He is having to delay proper care because he can't afford it. Chairman Forest asked what would be the cost of surgery to repair the injuries. Mr. Collins explained he has had one surgery but has re-torn one of the three ligaments. If he tears the other two, he will require surgery and didn't have the cost of the surgery.

Jay Allred, publisher of Triad and Triangle Golf Today and golf coach at Reagan High School, along with his daughter, Victoria Allred, a former East Carolina University golfer (Class of 2018) addressed the committee (see Attachment G, Section VII, document 2). Mr. Allred discussed the chronological history of Victoria's injury and the events that occurred after the injury. He noted when a student athlete is classified as non-counter disabled, they are required to work 20 hours a week in the athletic department to pressure them to quit the university. Victoria's treatment has incurred \$26,000 in medical bills, and ECU never mentioned there is a policy that would cover these expenses. The Allred family asked for a copy of the athletic policy manual from ECU and received a copy 5 months after the initial request under the Freedom of Information Act. Mr. Allred went on to say that the NCAA has declined to protect the student athletes and hasn't enforced the rules to ensure the student athlete is receiving an education.

They have determined there is no rule violation for sexual assault of former athletes, and no rule violation for a heat stroke. He went on to say there is virtually no oversight to protect the college athlete. Mr. Allred made suggestions for many recommendations that include the creation of the N.C. Bureau of College Athletics under the Department of Public Safety, the NC College Athlete Bill of Rights and the NC Coaches and Administrators Code of Conduct.

At this time, Victoria joined the discussion via skype. Representative Hardister asked her to explain her experience. She recounted a timeline of her experience as a college athlete at ECU, and talked about the mental and emotional abuse she received from her coach. She talked about the injury to her back, the rehabilitation process and the release from the golf team. Ms. Allred was able to complete her education, and filed a complaint over the treatment from the coach in May. She learned that the complaint had been dismissed in June. Since the dismissal of her complaint, her family has been questioning ECU regarding the blatant disregard for the seriousness of her injury with no response. After reviewing her medical records, the Allreds learned the doctor never cleared Victoria to return to play which is a violation of NCAA rules. Their findings were there is no jurisdiction over the athletic department. It should be noted ECU provided a letter to the committee regarding this situation (see Attachment G, Section VII, document 3).

Representative Fraley said there are many important aspects that need to be reviewed by the committee and it is important to hear factual information along with the opposite point of view. Senator Krawiec voiced her shock about the disturbing information in these testimonies and it is important to get more information. She believed there are some real problems that need to be remedied. Chairman Forest said there will be more information brought forth in future meetings and reminded the members to inquire if they would like more information provided to them (via Stephen Walker in Lt. Gov. Forest's office).

The committee meeting adjourned at 12:43 p.m.

Respectfully submitted,

Lieutenant Governor Dan Forest
Chairman

Susan Horne
Committee Assistant